

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 2:04-cr-12-3

RAMONE CARTER,

Defendant.

MEMORANDUM OPINION AND JUDGMENT ORDER

Pending before the Court is a *sua sponte* motion, brought pursuant to 18 U.S.C. § 3582(c)(2), to reduce Defendant's sentence based on a subsequent reduction in the applicable sentencing guideline. On November 1, 2007, the United States Sentencing Guidelines were amended to reduce by two levels the guidelines in Section 2D1.1 for cocaine base (also known as crack). Subsequently, the Sentencing Commission amended Section 1B1.10 to make the crack amendment retroactive, effective March 3, 2008. Pursuant to a Standing Order entered on February 6, 2008, this case was designated for Standard Consideration.

The Court has received and considered the original Presentence Investigation Report (PSI), original Judgment and Commitment Order and Statement of Reasons, plea agreement, and addendum to the PSI from the Probation Office, and received any materials submitted by the parties on this issue. The Court has also considered the applicable factors under 18 U.S.C. § 3553(a), consistent with § 3582(c)(2), and public safety.

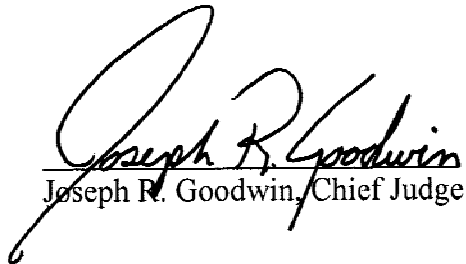
The defendant's original base offense level was 31, and he had a criminal history category of V. His original guideline range was 168 to 210 months. The defendant was sentenced to 72

months imprisonment pursuant to a substantial assistance motion filed by the government.

In its memorandum, the United States has indicated that it does not oppose a reduction in the defendant's sentence. Based on the foregoing considerations, the Court **ORDERS** that the defendant's base offense level be reduced by two levels, resulting in a new total offense level of 29, and a guideline range of 140 to 175 months. It is further **ORDERED** that Defendant's previous sentence be reduced to a period of 60 months, with credit for time served to date pursuant to U.S.S.G. 1B1.10(b)(2)(C). This sentence departs from the guideline range to the same degree that the original sentence departed from the original guideline range. *See* U.S.S.G. § 1B1.10 cmt. n.3

The Court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, the Federal Bureau of Prisons and the United States Marshals.

ENTER: March 14, 2008


Joseph R. Goodwin, Chief Judge